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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,478	12/12/2003	Eugene F. Greneker III	062020-1410	2471
24504	7590	09/30/2005	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948			SOTOMAYOR, JOHN B	
			ART UNIT	PAPER NUMBER
			3662	

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,478

Applicant(s)

GRENEKER ET AL

Examiner

John B. Sotomayor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 15MAR04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings filed December 12, 2003 appear to be formal and are acceptable.

Information Disclosure Statement

2. The information disclosure statement filed March 15, 2004 has been entered and considered. An initialed copy of the PTO-1449 by the Examiner is attached.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

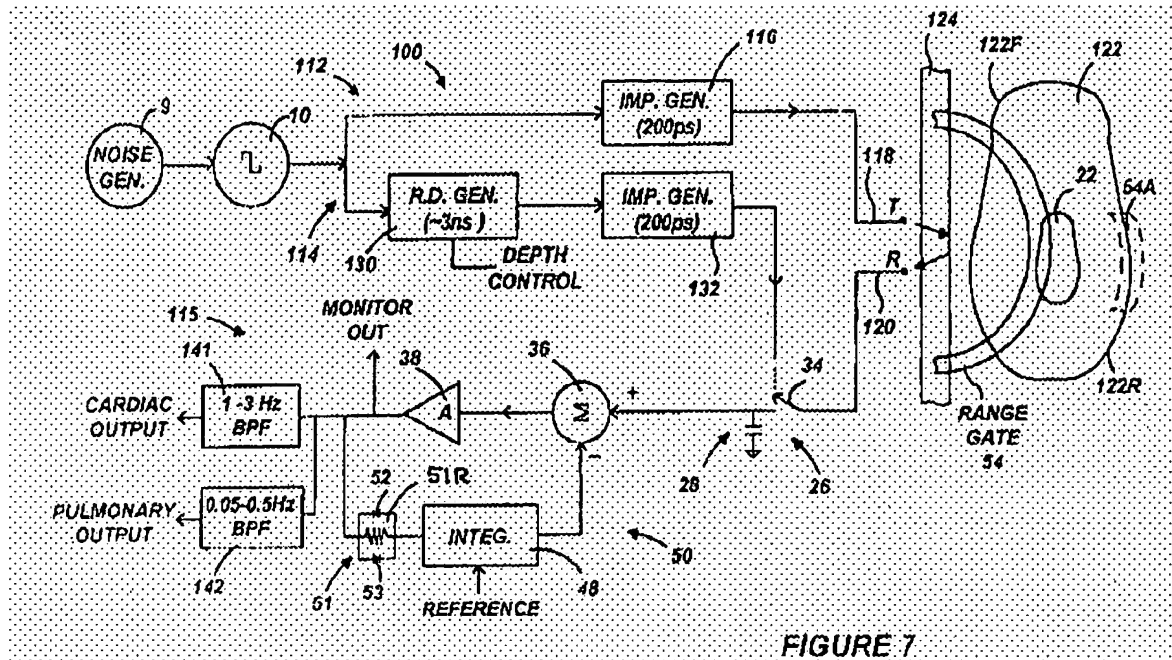
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 6-11, 13-19, 21, 22, 24-27, 29-32 are rejected under 35

U.S.C. 102(b) as being clearly anticipated by McEwan ('208).

The claims are considered to be met by McEwan ('208) who show a body monitoring and imaging including, inter alia, a radar system including an antenna system capable of scanning an object and is capable of detecting heart and respiratory motion through a surface. McEwan ('208) discloses that Figure 7 (reprinted below) shows a monitor 100, which operates in a generally similar way to the monitor 1 of FIG. 1, but has been modified for remotely detecting heart and respiratory motion through materials such as a mattress pad, a chair back, etc. The antennas of the monitor 100 have been modified to permit greater scanning range. The audible output has been deleted; however, one skilled in the art can optionally add this feature. A range control is provided, and can be set to detect respiration at a distance of about 6 feet. Identical numeral references in FIGS. 1 and 7 refer to identical components having identical functions. (Emphasis added).



Thus, McEwan ('208) meets the claims.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-5, 12, 20, 28, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over McEwan ('208) in view of the article to Chuang et al.

The invention is substantially disclosed by McEwan ('208) who disclose a radar system for detecting heart and respiratory movement of a person behind a structure

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such as a wall. However it appears that McEwan ('208) does not disclose the use of absorbers. While it is noted that absorbers are well known for their use in eliminating unwanted signals, Examiner applies the article to Chuang et al to specifically show the use of an absorber to unwanted microwave scattering (see page 179 second column).

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an absorber in the McEwan ('208) system as taught and as motivated by the article to Chuang et al in the same field of endeavor, i.e. respiratory motion detection systems, in order to mitigate any unwanted microwave backscatter signals. The remaining claims are either considered to be shown by the prior art or are considered to be well known technical variations in the radar art. For example, the operating frequency in the 10GHz range is shown in the prior art, digital shaft encoders to track the position of an antenna are well known in the art, etc.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art show various radar systems.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Sotomayor whose telephone number is 571-272-6978. The examiner can normally be reached on Monday to Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom H. Tarcza, can be reached on 571-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John B. Sotomayor
Primary Examiner
Art Unit 3662